

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	4:05CR3038
v.)	
)	
MICHAEL JOHN MERCER,)	
)	MEMORANDUM AND ORDER
Defendant.)	
_____)	

Defendant has moved for release to the Sienna House, a halfway house, for treatment. The motion is opposed by the government, which argues that he has a past history of failed attempts to complete treatment and/or sustain sobriety after treatment, including participation at the NOVA Therapeutic Community in Omaha; he is facing a mandatory minimum sentence of ten years, now that the court has accepted his guilty plea; and defendant's criminal history demonstrate his unwillingness to abide by conditions of release concerning drug use, even after treatment.

The government's arguments are well taken. In addition, now that the defendant's guilty plea has been accepted, 18 U.S.C. 3143 prohibits release unless there are extraordinary circumstances and the court finds that the defendant is not a flight risk or a danger to the community. I can make no such finding in this case.

IT THEREFORE HEREBY IS ORDERED,

The motion for release, filing 25, is denied.

DATED this 25th day of August, 2005.

BY THE COURT:

s/ *David L. Piester*

David L. Piester
United States Magistrate Judge